

REMARKS

This is a full and timely response to the non-final Official Action mailed **February 19, 2009** (the “Office Action” or “Action”). Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Claim Status:

By the forgoing amendment, the specification and claims 1, 18 and 60 have been amended. Claims 6, 7, 27, 28, 34, 35, 50, 51 and 61-64 were withdrawn from consideration and cancelled without prejudice or disclaimer. Therefore, claims 1-5, 8-26, 29-33, 36-49, 52-60 and 65 are currently pending for further action.

Prior Art:

(1) In the recent Office Action, claims 1-3, 8-10, 12-15, 17-21, 24, 29, 31 and 60 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2002/0059621 to Thomas (hereinafter “Thomas”) in view of US Patent App. Pub. No. 2002/0174444 to Gatto (hereinafter “Gatto”). For at least the following reasons, this rejection should be reconsidered and withdrawn.

Claims 1 and 60:

Claim 1 recites:

A system for saving settings of an audiovisual system, comprising:
a first audiovisual device comprising a *setting*; and
a second audiovisual device communicatively coupled to said first audiovisual device;
wherein said second audiovisual device is configured to retrieve said setting from said first audiovisual device and save said setting of said first audiovisual device *in response to* a save event;

wherein said save event includes a shutdown of at least one of said first audiovisual device and said second audiovisual device ***initiated through a user control***; and

wherein said second audiovisual device automatically saves said ***setting*** upon said shutdown.

(Emphasis added)

Claim 60 similarly recites:

A system for controlling the settings of an audiovisual system, comprising:

means for communicatively coupling a first audiovisual device to a second audiovisual device;

means for obtaining a ***setting*** from said first audiovisual device; and

means for storing said setting to said second audiovisual device ***in response to*** a save event;

wherein said save event includes a shutdown of at least one of said first audiovisual device and said second audiovisual device ***initiated through a user control***; and

wherein said second audiovisual device automatically saves said ***setting*** upon said shutdown.

(emphasis added)

Support for the amendment to claims 1 and 60 can be found in Applicant's original specification at, for example, Figure 4 and paragraph 0055 as well as paragraphs 0039-40.

In contrast, the combination of Thomas and Gatto do not teach or suggest the retrieval and saving of a setting from another device in response to a shutdown which has been initiated through a user control.

The Office Action concedes that Thomas does not "specifically disclose automatically save [a] setting upon shutdown." (Action, page 3) It follows, therefore, that Thomas also does not teach or suggest automatically saving a setting in response to a user initiated shutdown initiated through a user control.

Additionally, Gatto simply teaches storing *e-commerce transaction data* in response to an *unplanned* power loss. Specifically, Gatto teaches "a Context Data Save Engine 926 that is adapted to *save the state and context of the current transaction being executed from*

the program memory 904 (Dynamic or Static RAM) into the NVRAM 924 *as soon as power failure is sensed.*” (Emphasis added) (Gatto, para. 88).

Consequently, the combination of Thomas and Gatto does not teach the retrieval and saving of a setting nor does the combination of Thomas and Gatto teach the retrieval and saving of a setting in response to a user initiated shutdown.

Specifically, Gatto only teaches the retrieval and saving of data associated with an e-commerce transaction. (Gatto, para. 88) Gatto teaches that a “trusted cache 918 may also include a Context Data Save Engine 926 that is adapted to save the *state and context of the current transaction* being executed from the program memory 904 (Dynamic or Static RAM) into the NVRAM 924.” (Emphasis added) (*Id.*). Additionally, Gatto teaches that “[t]he trusted cache 918 may be used to continually store *the critical states of a transaction session* (such as an e-commerce transaction session, for example) into non-volatile memory 924.” (Emphasis added) (*Id.*) Consequently, the data saved in the e-commerce transaction is not a setting of an audiovisual device but instead merely saved data defining the context of an e-commerce transaction.

Unlike the combination of Thomas and Gatto, the present application saves a setting such as “a power status of the AV device (115), a selected channel of audiovisual programming, a volume setting, a status of current operations, a selected input or output channel, an interface or network configuration, a presentation setting, a visual setting, an audio setting, a personalized setting, and the like.” (Applicant’s specification, para. 28). Thus, the e-commerce transaction in Gatto is not equivalent to the “setting” recited in claims 1 and 60.

Furthermore, the combination of Thomas and Gatto does not teach or suggest retrieving and saving a setting *in response to a user initiated* shutdown. (Gatto, para. 88).

More specifically, Gatto teaches “[t]he trusted cache 918 may also include a Context Data Save Engine 926 that is adapted to save the state and context of the current transaction being executed from the program memory 904 (Dynamic or Static RAM) into the NVRAM 924 *as soon as power failure is sensed.*” (Emphasis added). (*Id.*). Additionally, Gatto teaches that “[t]he trusted cache 918 may be used to continually store the critical states of a transaction session (such as an e-commerce transaction session, for example) into non-volatile memory 924 *in case of temporary failure of the STB, either due to power outage, software crash, hardware latch-up or simply accidental user initiated power down.*” (Emphasis added) (*Id.*) Thus, Gatto teaches that the data generated mid-transaction in an e-commerce transaction is, without delay and autonomously, continually saved on non-volatile RAM for later use if and when an *unplanned* power loss has occurred.

Therefore, the combination of Thomas and Gatto fail to teach or suggest retrieving and saving a setting in response to a user initiated shutdown as recited in claims 1 and 60.

The Supreme Court recently addressed the issue of obviousness in *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727 (2007). The Court stated that the *Graham v. John Deere Co. of Kansas City*, 383, U.S. 1 (1966), factors still control an obviousness inquiry. Under the analysis required by *Graham* to support a rejection under § 103, the scope and content of the prior art must first be determined, followed by an assessment of the differences between the prior art and the claim at issue in view of the ordinary skill in the art. In the present case, the scope and content of the prior art, as evidenced by Thomas and Gatto, does not include the claimed subject matter, particularly retrieving and saving a setting in response to a user initiated shutdown as recited in claims 1 and 60.

The differences between the cited prior art and the claimed subject matter are significant because the claimed subject matter provides features and advantages not known or

available in the cited prior art. Consequently, the cited prior art will not support a rejection of claims 1 and 60 under 35 U.S.C. § 103 and Graham.

Claim 18:

Claim 18 recites:

An audiovisual host device, comprising:
an interface for communicatively coupling to an audiovisual device,
wherein said audiovisual device includes a *setting*;
a computer-readable medium; and
a processor communicatively coupled to said interface and said computer-readable medium;
wherein said processor is configured to:
receive said setting from said interface *in response to* a save event;
store said setting to said computer-readable medium upon said save event;
recall said setting from said computer-readable medium upon a restore event; and
communicate said recalled setting to said interface upon said restore event, wherein said recalled setting is configured to be restored to said audiovisual device
wherein said save event includes a shutdown of at least one of said host device and said audiovisual device *initiated through a user control*; and
wherein said processor automatically saves said setting upon said shutdown.
(emphasis added)

Support for the amendment to claim 18 can be found in Applicant's original specification at, for example, Figure 4. and paragraph 0055 as well as paragraphs 0039-40.

As amply demonstrated above, the combination of Thomas and Gatto do not teach or suggest the retrieval and saving of a setting from another device in response to a shutdown which has been initiated through a user control.

The Office Action concedes that Thomas does not "specifically disclose automatically save setting upon shutdown." (Action, page 3) It follows therefore that Thomas also does

not teach or suggest automatically saving a setting in response to a user initiated shutdown initiated through a user control.

Additionally, Gatto simply teaches storing *e-commerce transaction data* in response to an *unplanned* power loss. Specifically, Gatto teaches “a Context Data Save Engine 926 that is adapted to *save the state and context of the current transaction being executed* from the program memory 904 (Dynamic or Static RAM) into the NVRAM 924 *as soon as power failure is sensed.*” (Emphasis added) (Gatto, para. 88).

Specifically, Gatto only teaches the retrieval and saving of data associated with an *e-commerce transaction*. (Gatto, para. 88) Specifically Gatto teaches that a “trusted cache 918 may also include a Context Data Save Engine 926 that is adapted to save the *state and context of the current transaction* being executed from the program memory 904 (Dynamic or Static RAM) into the NVRAM 924.” (Emphasis added) (*Id.*). Consequently, the data saved in the e-commerce transaction is not a setting of an audiovisual device but instead merely saved data defining the context of an e-commerce transaction.

Unlike the combination of Thomas and Gatto, the present application saves a setting such as “a power status of the AV device (115), a selected channel of audiovisual programming, a volume setting, a status of current operations, a selected input or output channel, an interface or network configuration, a presentation setting, a visual setting, an audio setting, a personalized setting, and the like.” (Applicant’s specification, para. 28). Thus, the e-commerce transaction in Gatto is not equivalent to the “setting” recited in claims 1 and 60.

Furthermore, the combination of Thomas and Gatto do not teach or suggest retrieving and saving a setting *in response to a user initiated* shutdown. (Gatto, para. 88). More specifically, Gatto teaches “[t]he trusted cache 918 may also include a Context Data Save

Engine 926 that is adapted to save the state and context of the current transaction being executed from the program memory 904 (Dynamic or Static RAM) into the NVRAM 924 *as soon as power failure is sensed.*” (Emphasis added). (*Id.*). Additionally, Gatto teaches that “[t]he trusted cache 918 may be used to continually store the critical states of a transaction session (such as an e-commerce transaction session, for example) into non-volatile memory 924 *in case of temporary failure of the STB, either due to power outage, software crash, hardware latch-up or simply accidental user initiated power down.*” (Emphasis added) (*Id.*) Thus, Gatto teaches that the data generated mid-transaction in an e-commerce transaction is, without delay and autonomously, continually saved on non-volatile RAM for later use if and when an *unplanned* power loss has occurred.

Consequently, the combination of Thomas and Gatto does not teach the retrieval and saving of a setting nor does the combination of Thomas and Gatto teach the retrieval and saving of a setting in response to a user initiated shutdown.

Therefore, the combination of Thomas and Gatto fail to teach or suggest retrieving and saving a setting in response to a user initiated shutdown.

Again, under the analysis required by *Graham* to support a rejection under § 103, the scope and content of the prior art must first be determined, followed by an assessment of the differences between the prior art and the claim at issue in view of the ordinary skill in the art. In the present case, the scope and content of the prior art, as evidenced by Thomas and Gatto, does not include the claimed subject matter.

The differences between the cited prior art and the claimed subject matter are significant because recitation of claim 18 provides for automatically saving a setting in response to a user initiated shutdown initiated through a user control. Thus, the claimed subject matter provides features and advantages not known or available in the cited prior art.

Consequently, the cited prior art will not support a rejection of claim 18 under 35 U.S.C. § 103 and Graham.

(2) In the recent Office Action, claims 32-33, 36-46, 48-49, 52-59, and 65 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2002/0059621 to Thomas (hereinafter “Thomas”) in view of US Patent App. Pub. No. 2003/0066080 to Kamieniecki (hereinafter “Kamieniecki”). For at least the following reasons, this rejection should be reconsidered and withdrawn.

Claims 32 and 48:

Claim 32 recites:

A method for retaining settings of an audiovisual system, comprising:
obtaining a setting from a first audiovisual device, wherein said first audiovisual device is communicatively coupled to a second audiovisual device; and
storing said setting to said second audiovisual device upon a save event;
wherein said save event comprises *actuating a control button for a predetermined period of time.*

(Emphasis added)

Claim 48 similarly recites:

Processor-readable instructions stored on a processor-readable medium, such that said instructions, when executed, cause a processor to:
obtain a setting from a first audiovisual device, wherein said first audiovisual device is communicatively coupled to a second audiovisual device; and
store said setting to said second audiovisual device upon a save event;
wherein said *save event comprises actuating a control button for a predetermined period of time.*

(Emphasis added)

In contrast, neither Thomas nor Kamieniecki teach a save event comprising actuating a control button for a predetermined period of time.

The Office Action concedes that Thomas does not teach a save event which comprises actuating a control button for a predetermined amount of time. However, the Office Action cites to Kamieniecki at paragraphs 0003 and 0063-0065. This portion of Kamieniecki describes an automatic set-up device that “determine[s] whether the user is having difficulty or requires assistance (for example, the received command sequence does not correspond to a known command sequence ...) ... If the received set-up commands indicate to the automatic set-up device 100 that assistance is required, then control passes to block 630 as the guided set-up arrangement” is executed. (Kamieniecki, paragraph 0065). Thus, Kamieniecki *does not* actually teach or suggest the claimed subject matter in which a “save event comprises actuating a control button *for* a predetermined period of time.”

Again, under the analysis required by *Graham* to support a rejection under § 103, the scope and content of the prior art must first be determined, followed by an assessment of the differences between the prior art and the claim at issue in view of the ordinary skill in the art. In the present case, the scope and content of the prior art, as evidenced by Thomas and Kamieniecki, does not include the claimed subject matter.

The differences between the cited prior art and the claimed subject matter are significant because recitation of claims 32 and 48 provides for a method of retaining settings on an audiovisual system which comprises storing the setting to an audiovisual device upon a save event comprising actuating a control button for a predetermined period of time. Thus, the claimed subject matter provides features and advantages not known or available in the cited prior art. Consequently, the cited prior art will not support a rejection of claims 32 and 48 under 35 U.S.C. § 103 and *Graham*.

(3) In the recent Office Action, claims 4-5, 11, 22-23, 25-26, and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2002/0059621 to Thomas (hereinafter “Thomas”) in view of US Patent App. Pub. No. 2002/0174444 to Gatto (hereinafter “Gatto”) further in view of US Patent App. Pub. No. 2003/0066080 to Kamieniecki (hereinafter “Kamieniecki”). The rejection of claim 47 should be reconsidered and withdrawn for at least the reasons given above in favor of the patentability of independent claims 1 and 18 respectively.

(4) In the recent Office Action, claim 47 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2002/0059621 to Thomas (hereinafter “Thomas”) in view of US Patent App. Pub. No. 2003/0066080 to Kamieniecki (hereinafter “Kamieniecki”) further in view of US Patent No. 6,288,716 to Humpleman (hereinafter “Humpleman”). The rejection of claim 47 should be reconsidered and withdrawn for at least the reasons given above in favor of the patentability of independent claim 32.

(5) In the recent Office Action, claim 16 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2002/0059621 to Thomas (hereinafter “Thomas”) in view of US Patent App. Pub. No. 2002/0174444 to Gatto (hereinafter “Gatto”) further in view of US Patent No. 6,288,716 to Humpleman (hereinafter “Humpleman”). The rejection of claim 16 should be reconsidered and withdrawn for at least the reasons given above in favor of the patentability of independent claim 1.

Conclusion:

In view of the foregoing arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicant reserves the right to set forth further arguments in future papers supporting the patentability of any of the claims, including the separate patentability of the dependent claims not explicitly addressed herein. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

The absence of a reply to a specific rejection, issue or comment in the Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

If the Examiner has any comments or suggestions which could place this application in better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

If any fees are owed in connection with this paper that have not been elsewhere authorized, authorization is hereby given to charge those fees to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC.

Respectfully submitted,

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